



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/676,033

10/02/2003

Harold F. Booles

07105.0012

6922

7590

07/06/2004

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

EXAMINER

CYGAN, MICHAEL T

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,033

Applicant(s)

BOOLES, HAROLD F.

Examiner

Michael Cygan

Art Unit

2855

Am

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/03 and 02/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Sibthorpe (US 3,299,417). Sibthorpe discloses the claimed invention, a monitoring system comprising a fitting connected to the outer of a set of annular pipes, the fitting having a port connected to the annular space, and the port connected to means for detecting liquid leakage from the first pipe, where the means comprises a vacuum monitor producing a signal indicating liquid leakage upon pressure increase (vacuum reduction). See Figure 1, column 1 lines 18-43, and column 2 lines 10-24.
2. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Webb (US 5,831,149). Webb discloses the claimed invention, a monitoring system comprising a fitting connected to the outer of a set of annular pipes, the fitting having a port connected to the annular space, and the port connected to means for detecting liquid leakage from the first pipe, where the pipe line is connected at one end thereof to an underground tank and at

another end to an above ground dispenser. See Figures 1, 2, and 17a;
column 18 lines 3-24.

3. Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Roach (US 5,072,622). Roach discloses the claimed invention, a monitoring system comprising a fitting connected to the outer of a set of annular pipes, the fitting having a port connected to the annular space, and the port connected to means for detecting liquid leakage from the first pipe, where the means comprises a vacuum monitor producing a signal indicating liquid leakage upon pressure fluctuation (vacuum reduction). The fitting has a second port leading to another pipe system or a vent pipe, either of which (when the appropriate valves are closed) act as containers for liquid leakage. See Figure 1, column 3 line 44 through column 4 line 56, and column 5 lines 22-49.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roach (US 5,072,622) in view of Webb (US 5,831,149). Roach teaches the claimed

invention except for application to a system having an underground storage tank and an aboveground liquid dispenser. Webb (US 5,831,149) teaches a monitoring system comprising a fitting connected to the outer of a set of annular pipes, the fitting having a port connected to the annular space, and the port connected to means for detecting liquid leakage from the first pipe, where the pipe line is connected at one end thereof to an underground tank and at another end to an above ground dispenser; see Figures 1, 2, and 17a; column 18 lines 3-24. It would have been obvious to use a tank/dispenser system as taught by Webb in the invention of Roach to comprise the tested system, since Webb states the importance of proper leak prevention in such systems (column 1).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Containment of leaked substances in leak testing systems is disclosed by Kawabe (JP 57063433 A) and Ibe (US 4,380,168). Leak testing in concentric piping is disclosed by Langner (US 6,171,025), Webb (US 6,029,505), Sharp (US 5,975,110), and McStravick (US 4,673,652).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is (571) 272-2175. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Michael Cygan', with a large, stylized loop at the end.

Michael Cygan
Primary Examiner
Art Unit 2855